

NO INFORMATION RECEIVED

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

DATE: [REDACTED]

SURNAME [REDACTED]

Date:

NOV 20 2000

Contact Person: [REDACTED]

ID Number: [REDACTED]

Telephone Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You were formed as an association on [REDACTED]. You submitted Application Form 1023 on [REDACTED] requesting to be recognized as a school described in Sections 501(c)(3) and 509(a)(1) / 170(b)(1)(A)(ii) of the Code. Your accounting period ends December 31.

Your organizing document does not contain language which limits your activities to those exclusively for charitable purposes as described under Section 501(c)(3) of the Code. It does not state that no part of the net earnings of the organization shall inure to the benefit of private persons. It does not state that no substantial part of the activities of the organization shall be the carrying on of propaganda, or attempting to influence legislation, or participate in any political campaign on behalf of any candidate for public office. Finally, it does not contain a dissolution clause so that all assets are distributed to one or more exempt purposes within the meaning of Section 501(c)(3) of the Code.

You state an educational endeavor was started in about [REDACTED] when two families recognized the need for a way to educate their six children (ages 3-11) outside of the mainstream educational institutions in order to continue to instill in their children the values, morals and focus that they themselves had adopted and determined to continue in. To this end, the families joined together in the scholastic effort of home-schooling their children - unofficially naming the highly structured educational endeavor [REDACTED]. One family agreed to undertake the majority of the teaching responsibilities and the other offered to gladly share their income to help make the vision possible.

You state that [REDACTED] was established as the logical continuation of [REDACTED]. In order to continue the students' education in the purpose and focus for which they were called and trained, it was necessary to provide them with the highest quality vocational and college level academy training that could be given. You were thus established on [REDACTED]. You are a non-profit, private enterprise. You are independently owned and operated and have no affiliation with any other organization - religious or otherwise.

[REDACTED]

You state that [REDACTED] is a highly selective educational institution specializing in training students to find and apply viable solutions to impossible situations both individual and global. Because [REDACTED] sole emphasis and purpose is to facilitate the building of the House of the Lord, beginning with the training of the builders, and this is a worldwide endeavor for the good and benefit of the entire Earth, no discrimination whatsoever is made upon the basis of race, color, national or ethnic origin in the selection of students or faculty. You state the purpose for establishing [REDACTED] is for students to carry out a continual intercession (in prayer and obedience) for the Firstborn that the Divine Law be enforced and upheld. It is understood by each student that when the good of the Firstborn and the furtherance of His work and purposes are put first all other things benefit and receive good. Intercessory prayer is engaged in at least seven specific times throughout each day.

You state that there is not a single constructive trade that is not covered in the students' training. If in any way touches on the planning, engineering, building and maintaining of a well designed, environmentally efficient and friendly city. These include Light Construction, Mechanical Engineering, Industrial Arts, Environment Management, Business Management, and Home Economics. The study courses also include all the academic subjects necessary for a full education. These include Mathematics (Algebra II, Trigonometry, Calculus, Engineering Mathematics, Vector Mechanics, Electronics), Design Engineering, Science (Chemistry, Physics, Biology, Astronomy, Geology, Ecology), Drafting & Mechanical Drawing, English (Writing, Spelling, Comprehension, Literature, Research), Economics (Accounting, Bookkeeping, Record-keeping, Financial Stewardship), Social Studies (History, Geography, Current Events), Foreign Languages, and Art & Music (Instrument and Voice).

[REDACTED] Principal/Project Manager; [REDACTED] Financial Officer/Prayer Captain; [REDACTED] Communications Director; and [REDACTED] Administrative Secretary are members of your Board of Directors. There are also student/teachers: [REDACTED] [REDACTED] and their uncle, who is the College's Counsellor.

It appears that your nondiscriminatory policy is spelled out in your Charter and states that "[b]ecause [REDACTED] sole emphasis and purpose is to facilitate the building of the House of the Lord, . . . no discrimination whatsoever is made upon the basis of race, color, national, or ethnic origin in the selection of students or faculty."

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for educational purposes.

Section 170(b)(1)(A)(ii) of the Code defines a school as an educational organization, which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for section 501(c)(3) purposes unless it serves a public rather than a private interest. Thus, to meet the section 501(c)(3) requirement, it is necessary for an organization to establish that it is not organized or operated for the private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Rev. Rul. 69-175, 1969-2 C.B. 149, held a nonprofit organization, formed by parents of pupils attending a private school, that provides school bus transportation for its members' children serves a

private rather than a public interest and does not qualify for exemption under section 501(c)(3) of the Code.

Rev. Rul. 71-447, 1971-2 C.B. 230, provides that a private school which does not have a racially nondiscriminatory policy as to students does not qualify for exemption from federal income tax under section 501(c)(3) of the Code. It defines a racially nondiscriminatory policy as meaning "that the school admits the students of any race to all the rights, privileges, programs, and activities generally accorded or made available to students at the school and that the school does not discriminate on the basis of race in the administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school administered programs."

Rev. Proc. 75-50, 1975-2 C.B. 587, sets forth guidelines and recordkeeping requirements for determining whether private schools that are applying for recognition of exemption from federal income tax under section 501(c)(3) of the Code or are presently recognized as exempt from tax, have racially nondiscriminatory policies as to students. .03 Publicity. The school must make its racially nondiscriminatory policy known to all segments of the general community served by the school.

Rev. Proc. 75-50, Section 2.02 provides that a school must show affirmatively that it has adopted a racially nondiscriminatory policy as to students that is made known to the general public, and that since the adoption of that policy it has operated in a bona fide manner in accordance therewith.

Rev. Proc. 75-50, Section 4.03 provides that the school must use one of the following two methods to satisfy this requirement:

(a) The school may publish a notice of its racially nondiscriminatory policy in a newspaper of general circulation that serves all racial segments of the community. This publication must be repeated at least once annually during the period of the school's solicitation for students or, in the absence of a solicitation program, during the school's registration period. Where more than one community is served by a school, the school may publish its notice in those newspapers that are reasonably likely to be read by all racial segments of the communities that it serves. The notice must appear in a section of the newspaper likely to be read by prospective students and their families and it must occupy at least three column inches. It must be captioned in at least 12 point bold face type as a notice of nondiscriminatory policy as to students, and its text must be printed in at least 8 point type. The following notice will be acceptable:

**NOTICE OF NONDISCRIMINATORY POLICY AS TO STUDENTS**

The M school admits students of any race, color, national and ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

(b) The school may use the broadcast media to publicize its racially nondiscriminatory policy if this use makes such nondiscriminatory policy known to all segments of the general community the school serves. If this method is chosen, the school must provide documentation that the means by which this policy was communicated to all segments of the general community was reasonably expected to be effective. In this case, appropriate documentation would include copies of the tapes or script used and records showing that there was an adequate number of announcements, that they were made during hours when the announcements were likely to be communicated to all segments of the general community, that they were of sufficient duration to convey the message clearly, and that they were broadcast on radio or television stations likely to

be listened to by substantial numbers of members of all racial segments of the general community. Announcements must be made during the period of the school's solicitation for students or, in the absence of a solicitation program, during the school's registration period.

Rev. Proc. 75-50, Section 4.032(c) provides, in part, that whether a particular school follows a racially nondiscriminatory policy will be determined on the basis of the facts and circumstances of each case and both that section and other provisions of the Rev. Proc. enumerate some of the relevant facts and information to be considered in making the determination.

Section 501(c)(3) of the Code sets forth two main tests for qualification for exempt status. An organization must be both organized and operated exclusively for purposes described in section 501(c)(3). Based upon the information provided, you have not met either the organizational or operational test and therefore are not described as an organization in Section 501(c)(3).

First, the organizational test is not met. Your organizing document/Charter does not sufficiently limit your activities to 501(c)(3) purposes. Additionally, your organizing document does not expressly prohibit substantial carrying on of propaganda, or attempting to influence legislation, or participate in any political campaign on behalf of any candidate for public office. Finally, your organizing document does not contain a dissolution clause requiring all assets to be distributed to another 501(c)(3) organization.

Second, you do not satisfy the operational test. The regulations under section 501(c)(3) of the Code expand on the requirements for satisfaction of the operational test. The key requirement is that an organization be operated exclusively for one or more exempt purposes. To determine whether this test is satisfied, section 1.501(c)(3)-1(c)(1) of the regulations directs the Internal Revenue Service to determine if the organization engages primarily in activities, which accomplish one or more exempt purposes. Section 1.501(c)(3)-1(d)(1)(ii) of the regulations expands on the operated exclusively concept by providing that an organization is not operated exclusively to further exempt purposes unless it serves a public rather than a private interest. Even if one of your activities has a private purpose, such as benefiting private parties, you will not qualify for exemption. See Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279 (1945). Based on the facts that you have provided in your application for recognition of exemption, we are not able to conclude that you are operated exclusively for public rather than private interests.

You are currently operating a school for the private benefit of your founders/members rather than a public school benefiting the community at large. All of your founders, officers, directors, teachers and students are members of two families. Your Board of Directors is self-perpetuating. You are organized similar to the organization in Rev. Rul. 69-175, supra. You are formed by the parents/founders of the students attending the school. All control rests with the parents/founders. Your income approximately equals the expenses involved in your operation. Your operation is similar to the one in the Rev. Proc. 69-175 as you appear to be a group of associated individuals providing a cooperative service for yourselves and are thus serving a private interest rather than a public interest as it enables the participating related parents to fulfill your individual responsibility of providing an education for your children.

Private benefit arises when the benefits of the organization's activities are reaped by a specific private class of individuals in more than an incidental way instead of the community in general. The concept of private benefit focuses on the scope of the class to be served by the organization's activities, rather than on direct transfers of income. The concept of private benefit is illustrated by the case of

[REDACTED]

Ginsberg V. Commissioner, 46 T.C. 47 (1966). Ginsberg involved an organization formed to dredge a waterway that fronted the property of individuals who contributed to the organization. The court found that the waterway was not used to any great extent by the public, but rather enhanced the value of the property owned by the contributors. The court held the organization was organized and operated primarily for the benefit of the persons contributing to it and, therefore, it did not satisfy the requirements of section 501(c)(3). In contrast to Ginsberg, Rev. Rul. 70-186, 1970-1 C.B. 128, held that an organization formed to preserve and improve a lake qualified as an organization exempt from tax under section 501(c)(3). The lake was used extensively by the public and benefit derived by lakefront owners was merely incidental to the public benefit provided and "did not lessen the public benefit flowing from the organization." Thus, a private benefit will not disqualify an organization's exemption if the private benefit is "incidental," in that the benefit to the public cannot be achieved without necessarily benefiting private individuals and the benefit to such individuals is insubstantial in relation to the public benefit conferred by the activities.

You are operated by related individuals and all your students are blood relatives of your board members. All parents are related to the board members and related individuals provide all of the support for the school. Your founders/parents derive a private benefit in that they may provide an education for their children in a school environment with an appearance of a public school. Teaching your own children on a cooperative basis is not an exempt purpose within the meaning of section 501(c)(3) of the Code.

You have not met the minimum publishing requirements of Rev. Proc. 75-50. You do not publish in a newspaper of general circulation that serves all racial segments of the community or use the broadcast media to promote your nondiscriminatory policy. You have not drawn any students to your school other than the members of the two founding families. Based on the facts and circumstances, you have not met the requirements of the Rev. Proc.

Accordingly, you have not demonstrated that it is operated exclusively for purposes described in section 501(c)(3) of the Code.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

Contributions to you are not deductible under section 170.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted

[REDACTED]

administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service  
Attn: T:EO:RA:T:4, Rm. 6236  
1111 Constitution Ave., N.W.  
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Gerald V. Sack

Gerald V. Sack  
Manager, Exempt Organizations  
Technical Group 4

[REDACTED] [REDACTED]